

TENTATIVE RULINGS for LAW and MOTION

September 29, 2020

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court's Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Ten (530) 406-6816
Telephone number for the clerk in Department Nine (530) 406-6819

NOTICE: Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court's Website at www.yolo.courts.ca.gov.

TENTATIVE RULING

Case: Crane v. General Motors
Case No. CV 2020-629

Hearing Date: September 29, 2020 Department Nine 9:00 a.m.

Defendant General Motors LLC's demurrer as to the first and second causes of action for breach of implied warranty of merchantability and breach of express warranty is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff Bryan Crane has adequately pled the legal effect of the lease agreement. (*Construction Protective Services, Inc. v. TIG Specialty Ins. Co.* (2002) 29 Cal.4th 189, 198–199; Complaint, ¶¶ 4-7, 46-49.)

Defendant General Motors LLC's demurrer as to the third cause of action for fraudulent inducement-concealment is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e).) Plaintiff has pled his fraud cause of action with sufficient particularity, given that he is asserting defendant's nondisclosure of information. (*Alfaro v. Community Housing Improvement System & Planning Assn., Inc.* (2009) 171 Cal.App.4th 1356, 1384; Complaint, ¶¶ 50-52, 76-80, 82.) Further, plaintiff has adequately stated facts alleging "safety concerns posed by the vehicle." (*Daugherty v. American Honda Motor Co., Inc.* (2006) 144 Cal.App.4th 824, 836; Complaint, ¶¶ 15-16, 35.) However, plaintiff's third cause of action is barred by the economic loss rule because plaintiff has failed to plead facts "demonstrat[ing] harm above and beyond a broken contractual promise." (*Food Safety Net Services v. Eco Safe Systems USA, Inc.* (2012) 209 Cal.App.4th 1118, 1130; Complaint, ¶¶ 75-84.) Absent allegations of affirmative misrepresentations, plaintiff's third cause of action does not satisfy the narrow *Robinson* exception. (*Robinson Helicopter Co., Inc. v. Dana Corp.* (2004) 34 Cal.4th 979, 990-991 & 993; Complaint, ¶ 16.)

Defendant General Motors LLC's motion to strike is **DENIED AS MOOT**. (Code Civ. Proc., §§ 435, 436.) Plaintiff's punitive damage prayer is based on his fraudulent inducement-concealment cause of action.

Plaintiff Bryan Crane may amend his complaint by no later than October 9, 2020. (Cal. Rules of Court, rule 3.1320(g).)

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties immediately of the tentative ruling system.

If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.